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SUBJECT: TINTAYA MINE: FROM CONFLICT TO COOPERATION

REF: A. LIMA 1432

[B](#). 04 LIMA 5441
[C](#). 04 LIMA 4471

Summary:

1. (SBU) Conflicts between communities and mining companies are among the most serious problems that confront Peru. One company, however, stands out as an exception: BHP Billiton, an Australian firm with a copper mine in Tintaya, has succeeded in ameliorating once highly conflictive relations with the local community through a permanent dialogue table established with the help of Oxfam America. The Tintaya Model shows that, at least in some cases, negotiation can lead to accommodation of mining and community interests. Post notes that Oxfam's role in Tintaya contrasts starkly with its involvement in protests that turned violent in Cajamarca last September. End Summary.

From Conflict to Cooperation

2. (SBU) Over the last three years, BHP Billiton, an Australian company that owns the Tintaya copper mine in the province of Espinar in southeastern Peru, has succeeded in transforming once conflictive relations with the local community into cooperative ones through a dialogue table set up with the help of Oxfam Australia.

3. (SBU) Espinar Province is located 260 km from Cusco in southeastern Peru. It is one of Peru's poorest provinces, with 84 percent of the population living beneath the poverty line. Almost 80 percent of Espinar's inhabitants speak Quechua as their first language. In 1980, the Peruvian Government expropriated 2368 hectares of land from local communities to establish the Tintaya copper mine. The mine began operations as a government-run enterprise in 1985. In 1994, under Fujimori-era privatizations, an American firm, the Magma Copper Company, purchased Tintaya. Two years later, an Australian mining firm, BHP Billiton (BHP), bought the mine from Magma. At the same time, Tintaya also purchased additional lands from local communities, approximately doubling the land to be mined. In 1999, the mine produced 76,795 metric tons of refined copper.

4. (SBU) Starting in 2000, BHP faced a number of challenges from local communities over latent grievances, some of them dating from before BHP's acquisition of Tintaya. These included:

-Protests that land for the mine had been purchased under unfair conditions.

-Community women complained of being forcefully evicted from land they considered theirs.

-Locals alleged contamination of air and water by mine wastes that had led to ailments among both people and cattle.

Enter Oxfam

5. (SBU) In 2001, Oxfam, in collaboration with local NGOs concerned about mining, analyzed the communities, complaints. Oxfam found that the GOP had paid USD three per hectare in compensation for the land for the Tintaya mine. The GOP had also promised mine employment to those who lost land. Most of the promised employment disappeared when copper prices fell in subsequent years. Further, Oxfam also found that some people had been forcibly ejected from the land. Oxfam reps attribute this to weak documentation of land ownership in the countryside, where country dwellers may have farmed land for generations without title to the same. Thus, when a sale takes place, they may not be aware of it until asked to leave. Finally, locals had been injured and killed falling into holes dug to mine the copper at Tintaya.

16. (SBU) Initially, local BHP reps refused to respond to the community's complaints. Oxfam America in Peru contacted Oxfam's Mining Ombudsman in Australia, who discussed the case with BHP upper management in 2001. In February 2002, Oxfam, Tintaya-area NGOs, and local community leaders agreed to establish a Dialogue Table, a permanent forum, for negotiating solutions to problems caused by the mine. Four joint commissions, made up of company and community reps as well as NGOs were also established to work on issues involving land, human rights, sustainable development, and the environment.

17. (SBU) These commissions proposed solutions to various problems that had plagued BHP's relations with the local community. Peasants who had lost their land were relocated onto new territories purchased by BHP. The Human Rights Commission worked with the Institute of Legal Defense (ILD), a Lima-based human rights NGO, and the local Vicaria of Solidarity of the Catholic Church to investigate alleged human rights abuses. BHP acknowledged that human rights abuses had occurred during forcible relocations of inhabitants. The company paid compensation to victims, usually several thousand dollars. In one case, that of a boy whose father had fallen into the mining pit and died, the company provided him and his mother with a house (worth about USD 3000) and a commitment to finance his education until age

18.

Problems with Dam

18. (SBU) During 2003, a new problem surfaced. BHP had received permission to build an additional dam to contain mine wastes. The new dam would extend the life of the mine by ten years. In planning, BHP complied with all the regulations required by the Peruvian State. Nonetheless, when locals found out about the dam's construction, they protested that it would have a negative impact on downstream farmers. BHP used the Dialogue Table to meet with concerned residents and made significant design modifications to the dam to ensure that it would have no negative environmental impact.

19. (SBU) In 2003, BHP negotiated a Framework Agreement with the local community in which the company guaranteed that it would provide USD 1.5 million annually for local projects designed to produce sustainable development. An administrative committee of company and community reps manages the projects. Currently there are 22 projects ongoing.

Oxfam: Teaching Locals How to Negotiate

10. (SBU) Oxfam mining expert Javier Aroca and Oxfam rep Katherine Ross explained that Oxfam faced significant difficulties in training the affected communities in how to negotiate with BHP. Aroca said that Peruvian political culture orients local leaders to take maximalist, high visibility positions that often fire up their supporters, but are not helpful in reaching an agreement. Oxfam worked for several months to teach the concept of bargaining and genuine negotiations to key members of the communities around Tintaya so that they could deal effectively with the company.

11. (SBU) Oxfam reps praised BHP for acknowledging that human rights violations had occurred. Ultimately, the costs of compensation in cases were not high, but the company's willingness to acknowledge that wrongs had taken place went a long way toward building trust.

12. (SBU) BHP rep Paul Warner told Poloff that BHP has benefited also from its investment of time and money into good relation at Tintaya. In his words, BHP has established itself as the mining company of choice for NGOs and activists interested in mining issues. BHP's image as the kinder, gentler mining company could pay dividends in the future as other mining concessions open up and face NGO and community scrutiny.

A Contagious Example?

13. (SBU) Oxfam and Buenaventura Mining Company jointly sponsored a workshop on 4/18 to discuss the International Labor Organization (ILO) Agreement 169, which protects the rights of indigenous peoples. ILO 169 says that that governments must consult with indigenous peoples regarding projects that might impact their communities. Though Peru's Congress ratified ILO 169 in 1993, the agreement has not been implemented in Peru. Representatives of various mining companies attended the joint Oxfam-Buenaventura event, where they discussed how to interpret and implement ILO 169.

Marked Contrast to Cajamarca Debaacle

¶14. (SBU) Oxfam's success in working with BHP is a departure from its experience in Cajamarca six months ago. Last September, protests against Newmont Mining/Yanacocha Mine's exploration of Cerro Quilish turned violent. Protesters argued that Yanacocha's exploration would harm the water supply for the surrounding communities, which are highly dependent upon agricultural production (Ref B). Some of Oxfam's Cajamarca partners made inflammatory statements that may have contributed to an atmosphere of violence. We understand that Oxfam has stopped its financial support to one more such groups.

¶15. (SBU) Although part of the blame for the September protests against Yanacocha, which led to the postponement of the exploration of Quilish, lies with Newmont, Oxfam, as well as other participating NGOs, should not have let the protests get out of hand. Yanacocha is improving its public relations as well as its cooperation with the local government (ref A). Oxfam continues to deny its involvement with any of the violent protestors and has now adopted a specific policy of non-violence and dialogue in the Cajamarca region. Oxfam is also participating in the Cajamarca Mining Dialogue group, which brings together representatives from the government, mining companies, NGOs, and the community to attempt to resolve some of the real concerns about mining in Cajamarca.

Comment:

¶14. (SBU) BHP management in Australia moved intelligently to incorporate Oxfam and other local NGOs into the negotiations process to head off brewing problems in Tintaya that local management had ignored. In this way, BHP emerged with a much-enhanced reputation and a working mine. Too often, mining companies in Peru assume that if they get central and municipal government approval and pay taxes, they should not experience problems. Weak linkages between governments and communities and endemic corruption can render agreements with elected governments useless. Companies need to communicate their needs to communities and make sure that message reaches the grassroots.

¶15. (SBU) Oxfam America proved to be an effective moderating force in training local community leaders in how to negotiate realistically with a foreign mining company. This contrasts with the more confrontational stance the NGO took on the question of Newmont's Mine in Quilish (Ref C). For its part, Oxfam America appears to be trying to market itself as an intermediary between the community and the mining companies. Although it did have some success in Tintaya, it remains to be seen whether Oxfam, in the future, will act as an honest broker or will position itself firmly on the side of radical, anti-mining NGOs.
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